

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SUNIL K. PATEL and DAKSHA S. PATEL,
Plaintiffs,

vs.

HOME SAVINGS OF AMERICA, et al.,
Defendants.

CASE NO. 10-CV-1845 MMA (BLM)

ORDER:

**(1) GRANTING DEFENDANT
RESIDENTIAL FUNDING LLC'S
MOTION TO DISMISS;**

[Doc. No. 4]

**(2) GRANTING DEFENDANTS
AURORA LOAN SERVICES AND
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS,
INC.'S MOTION TO DISMISS;**

[Doc. No. 5]

**(3) DENYING PLAINTIFFS'
REQUEST TO AMEND**

[Doc. No. 8]

On July 21, 2010, Plaintiffs Sunil Patel and Daksha Patel ("Plaintiffs") filed a Complaint in the Superior Court of California, County of San Diego. On September 3, 2010, Defendant Residential Funding LLC ("Residential Funding") removed the Complaint to this Court. [Doc. No. 1.] On September 10, 2010, Residential Funding filed a Motion to Dismiss Plaintiffs' Complaint. [Doc. No. 4.] On September 21, 2010, Defendants Aurora Loan Services and

1 Mortgage Electronic Registration Systems, Inc. filed a Motion to Dismiss Plaintiffs' Complaint.
2 [Doc. No. 5.] On October 15, 2010, Plaintiffs filed a Statement of Non-Opposition and Request to
3 Amend. [Doc. No. 8.]

4 Federal Rules of Civil Procedure, Rule 15(a) provides that a party's right to amend as a
5 matter of course terminates "21 days after service of a responsive pleading or 21 days after service
6 of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed.R.Civ.P. 15(a)(1)(B). The
7 time for Plaintiffs to file an amended pleading as a matter of right has passed. Thus, Plaintiffs may
8 only amend its pleading with the Court's leave. Fed.R.Civ.P. 15(a)(2).

9 Under the Civil Local Rules, a party must first obtain a hearing date for any matters on
10 which a ruling is required. ACivLR 7.1.b. Furthermore, the Local Rules state that a written notice
11 of the matter requiring the Court's ruling is necessary and requires a minimum filing date of
12 twenty-eight days prior to the date for which the matter is noticed, such that opposing counsel is
13 provided adequate time to respond. *See* ACivLR 7.1.e. Here, Plaintiffs included in their statement
14 of non-opposition a request to amend their Complaint. [Doc. 8.] Plaintiffs did not request a
15 hearing date from the clerk of the judge to whom the case is assigned, nor did they otherwise seek
16 leave of Court in compliance with the aforementioned Local Rules.

17 Accordingly, **IT IS HEREBY ORDERED THAT:**

18 (1) Defendant Residential Funding LLC's Motion to Dismiss is **GRANTED** without prejudice;
19 (2) Defendants Aurora Loan Services and Mortgage Electronic Registration Systems, Inc.'s
20 Motion to Dismiss is **GRANTED** without prejudice; and
21 (3) Plaintiffs' Request for Leave to Amend is **DENIED**. If Plaintiffs choose to seek leave of
22 Court to file an amended complaint, Plaintiffs shall do so in accordance with Local Civil Rule 7.1.

23 **IT IS SO ORDERED.**

24
25 DATED: October 19, 2010



26 Hon. Michael M. Anello
27 United States District Judge
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